

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Nathan L. Mayes,)	C/A No. 2:10-1807-CMC-BHH
)	
Plaintiff,)	
)	
v.)	
)	OPINION & ORDER
Michael J. Astrue,)	
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

Through this action, Plaintiff seeks judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's claim for Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI"). Plaintiff appealed pursuant to 42 U.S.C. §§ 405(g). The matter is currently before the court for review of the Report and Recommendation ("Report") of Magistrate Judge Bruce Howe Hendricks, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rules 73.02(B)(2)(a) and 83.VII.02, *et seq.*, D.S.C.

The Report, filed on August 9, 2011, recommends that the decision of the Commissioner be affirmed. Dkt. No. 20. On September 6, 2011, Plaintiff notified the court that he would not file objections because he missed the deadline based on counsel's administrative oversight. Dkt. No. 24. In light of counsel's oversight, Plaintiff requests that the court consider his arguments raised in his initial brief to the Magistrate Judge. Dkt. No. 24.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject,

or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

In light of the Plaintiff’s notice that he will not file objections to the Report, the court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error.¹ Finding none, the court adopts and incorporates the Report by reference. For the reasons set forth therein, the decision of the Commissioner is affirmed as it is supported by substantial evidence.

IT IS SO ORDERED.

S/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 20, 2011

¹ Even if the court considered Plaintiff’s arguments in his brief to the Magistrate Judge as objections to the Report (Dkt. No. 15), and thus conducted a *de novo* review of those issues, the court would adopt the Report and affirm the Commissioner’s decision. The court reviewed the issues raised in Plaintiff’s brief and, for the reasons stated in the Report, finds that the Commissioner’s decision was supported by substantial evidence.